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09/901,600	07/11/2001	Oliver Wendel Gamble		7631

7590 10/07/2004  
Oliver W. Gamble  
436 E 75th Str.  
New York, NY 10021

EXAMINER

CONTEE, JOY KIMBERLY

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/901,600

### Applicant(s)

GAMBLE

### Examiner

Joy K Contee

### Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 46-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-90 is/are rejected.
- 7) ☒ Claim(s) 46 and 89 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 47,49,50,53,56,58-65,80 and 85 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 47 (and its dependents, claims 49,50,53) which is dependent on claim 46, Applicant claims "the electrical signature". Mention of "electrical signature" is not found in specification. The claims have not been examined on the merits.

Regarding claims 56, 58 (and its dependents, claims 59-65),80 and 85, Applicant claims "mimicking electronically the pressing of a button..". Mention of "mimicking electronically" is not found in the disclosure of the invention. The claims have not been examined on the merits.

### ***Claim Objections***

2. Claim 46 is objected to because of the following informalities: in line 6 of the claim, "base" should be "based". Appropriate correction is required.

3. Claim 89 is objected to because of the following informalities: in line 1 of the claim, "Computer" should be "computer". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 46,51-52,54,57,66-69 and 83 are rejected under 35 U.S.C. 102(b) as being anticipated by Balachandran, U.S. Patent No. 6,006,085.

Regarding claims 46,54 and 66 Balachandran discloses a system and method for dynamic flexible marketing based on system utilization wherein a Dynamic Flexible Marketing System (DFMS) is implemented within a wireless or wireline network (col. 3, lines 43-50 and col. 6, lines 42-57). The DFMS offers discount calls which are achieved when the subscriber appends required code to a dialed number or if a required service code followed by the first required code and the dialed number is entered (col. 5, lines 16-62). Thus the required entered code is matched against the current DFMS code to determine whether a discount is valid for the call. (col. 5, lines 27-44). Calls are discounted according to bandwidth utilization of long distance links or channel utilization of long distance links in the wireline embodiment (col. 6, lines 42-65).

Hence, Balachandran reads on the Applicant's claimed method for routing calls through a discount telephone service, comprising:

method for collecting the digits of a dialed phone number by monitoring the keypad of a wireless device (and monitoring call phone function keys for outgoing call

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activity) (i.e., reads on wireless mobile in a cellular environment or cordless telephone in a wireline network); method for determining whether an outgoing call from a wireless device is a discount call based on analysis of the leading dialed digits (and at least one digit) of said call (reads on determining if entered code matches DFMS code); method for accessing a discount service provider (i.e., using DFMS) for an outgoing long distance call; and method for dialing the access number for a discount telephone service provider (i.e., reads on service provider utilizing DFMS) and the digits corresponding to an outgoing long distance call (see Balachandran cols. 5 and 6 and as specifically described above).

Regarding claim 48, Balachandran further discloses the method according to claim 46, wherein the determining whether a discount call is made is accomplished by determining whether the leading digits that encode the area code of an outgoing call meets a predetermined sequence of digits (col. 5, lines 54-62).

Regarding claims 51 and 57 Balachandran discloses the method according to claims 46 and 54 respectively, wherein the discount call is an international call (col. 6, lines 42-52).

Regarding claims 52 and 69, Balachandran discloses the method according to claims 46 and 66, wherein the discount call is not a special service call, toll free call, or a local call with an area code (e.g., calling from the U.S. to Latin America, international calls) (col. 6, lines 42-52).

Regarding claim 83, McGregor discloses the system according to claim 66 wherein a system for routing a call to a discount service provider is integrated into a

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wireless device (i.e., reads on within the wireless system)(col. 3, lines 43-57 and col. 5, lines 17-45).

Regarding claim 67, Balachandran discloses the system according to claim 66, further comprising:

means for determining whether an access code is required to effectuate said routing (i.e., call can go through without code at regular rate) (col. 5, lines 44-53); and means for transmitting said access code through the cell phone when said code is required (col. 5, lines 54-66).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 70-78, 86-90 are rejected under 35 U.S.C. 102(e) as being anticipated by McGregor et al (McGregor), U.S. Patent No. 6,650,887.

Regarding claim 70, McGregor discloses a system for routing calls through a discount telephone service using a wireless device, comprising:

a microchip configured for identifying electrical signals encoding digits associated with an outgoing telephone number by monitoring activity on the wireless device keypad and storing observed activity in memory (col. 5, lines 28-48);

a processor configured for analyzing one or more of the electrical signals encoding the digits generated by pressing a key on the wireless device keypad, and configured for determining whether a potential discount call is being made (including a DTMF encoder configured for detecting the DTMF tones associated with an outgoing telephone number, a processor configured for determining whether the outgoing call is a discount call by determining whether the predetermined number of dialed digits comprises a predetermined sequence (col. 5, lines 49-64);

a memory configured for collecting the telephone number corresponding to the potential discount call; and a microchip configured for generating electrical signals corresponding to the phone number for a discount service provider, an access code if needed, and the outgoing call telephone number (col. 2, lines 54-65 and col. 5, lines 27-48 and col. 17, line 43 to col. 18, line 7).

Regarding claim 71, McGregor discloses the system according to claim 70, wherein the processor is further configured for comparing a first predetermined numbers of an outgoing call in order to determine whether the outgoing telephone number is a discount call (col. 17, line 43 to col. 18, line 7).

Regarding claim 72, McGregor discloses the system according to claim 71, wherein the leading digit of an outgoing call represented an electrical signals that encodes the zero digit (col. 16, lines 25-34).

Regarding claim 73, McGregor discloses the system according to claim 70, wherein the leading electrical signals of an outgoing call represent the digits that encode an area code of a long distance phone number (col. 16, lines 1-48).

Regarding claims 74, McGregor discloses the system according to claim 71, wherein the processor is further configured for determining whether an international phone call is being made prior to the-action of a wireless device user convey the dialed phone number to the communication network (col. 17,line 43- col. 18,line 7).

Regarding claim 75, McGregor discloses the system according to claim 71, wherein the processor is further configured for determining whether an access code is required to effectuate said routing, and for transmitting said access code stored in memory over the wireless device when said code is required (i.e., billed numbers)(col. 17,line 31- col. 18, line 47).

Regarding claim 76, McGregor discloses the system according to claim 70, wherein the potential discount call is an international call (col. 2,lines 54-65).

Regarding claim 77, McGregor discloses the system according to claim 70, wherein the potential discount call is not a special type call or toll call (i.e., international call)(col. 2,lines 54-65).

Regarding claim 78, McGregor discloses the system according to claim 71, wherein the processor is further configured for choosing an access number from a plurality of access numbers for a discount service (col. 2,lines 54-64).

Regarding claim 86, McGregor discloses a computer readable medium having computer executable software code stored thereon, the code for automatically routing calls through a discount telephone service using a wireless device, comprising:

code for automatically determining whether an outgoing call on a wireless device is a discount call (col. 5, lines 28-48 and col. 17, line 51- col. 18, line 7);



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code for collecting the digits corresponding to the discount call by monitoring the keypad of a wireless device for activity (col. 17, line 51- col. 18, line 7); and

code for dialing the access number for a discount telephone service provider and the digits corresponding to the discount call (col. 2, lines 63-65).

Regarding claim 87, McGregor discloses a programmed computer for routing calls through a discount telephone service using a wireless device, comprising:

a memory in a wireless device having at least one region for storing computer executable program code (col. 5, lines 28-47); and

a processor for executing the program code store in said memory, wherein the program code includes (col. 6, lines 32-42):

code for determining from the sequence of the leading digits whether an outgoing call is a discount call (col. 2, lines 54-65 and col. 5, lines 28-47);

code for collecting the digits corresponding to the discount call by monitoring the activity of the keypad of the wireless device; and code for dialing the access number for a discount telephone service provider and the digits corresponding to the discount call by mimicking the pressing of keys on the wireless device keypad (col. 17, line 51 to col. 18, line 7).

Regarding claim 88, McGregor discloses computer executable software code stored on a computer readable medium, the code for routing calls through a discount telephone service, comprising: code for monitoring a cell phone for outgoing call activity; code for determining whether the outgoing call is a potential discount call; code for detecting the DTMF tones corresponding to a first predetermined number of

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DTMF tones, wherein the determining whether the outgoing call is a potential discount call is accomplished by determining whether the first predetermined number of at least one DTMF tone meets a predetermined sequence of the DTMF tones; code for collecting the digits corresponding to the discount call; and code for dialing the access number for a discount cell phone provider and the digits corresponding to the discount call (col. 2, lines 54-65 and col. 5, lines 27-48 and col. 17, line 43 to col. 18, line 7).

Regarding claim 89, McGregor discloses a computer readable medium having computer executable software code stored thereon, the code for routing calls through a discount telephone service, comprising:

code for monitoring a cell phone activity for outgoing call; code for determining whether the outgoing call is a potential discount call; code for detecting the DTMF tones corresponding to a first predetermined number of DTMF tones, wherein the determining whether the outgoing call is a potential discount call is accomplished by determining whether the first predetermined number of at least one DTMF tone meets a predetermined sequence of the DTMF tones; code for collecting the digits corresponding to the discount call; code for determining whether a of the numbers associated with the discount call have been collected within a predetermined polling period; and code for dialing the access number for a discount telephone provider and the digits corresponding to the discount call col. 2, lines 54-65 and col. 5, lines 27-48 and col. 17, line 43 to col. 18, line 7).

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Regarding claim 90, McGregor discloses a programmed computer for routing calls through a discount telephone service, comprising:

a memory in a wireless device having at least one region for storing computer executable program code (col. 5, lines 28-48); and

a processor (see col. 6, lines 32-42) in a wireless device for executing the program code store in memory, wherein the program code includes:

code for monitoring a wireless device phone activity for outgoing call; code for determining whether the outgoing call is a potential discount call; code for detecting the DTMF tones corresponding to a first predetermined number of DTMF tones, wherein the determining whether the outgoing call is a potential discount call is accomplished by determining whether the first predetermined number of at least one DTMF tone meets a predetermined sequence of the DTMF tones; code for collecting the digits corresponding to the discount call; and code for dialing the access number for a discount telephone provider and the digits (col. 2, lines 54-65 and col. 5, lines 27-48 and col. 17, line 43 to col. 18, line 7).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balachandran, U.S. Patent 6,006,085, in view of McGregor et al. (McGregor), U.S. Patent No. 6,650,887.

Regarding claim 55, Balachandran discloses the method according to claim 54. Balachandran fails to disclose effectuating a re-set state when an initial phone number is entered but not dialed.

In a similar field of endeavor, McGregor discloses reset calls memory or reset/erase the call activity storage data (see TABLE I col. 7, line 15).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Balachandran to include an erase command for the purpose of clearing a entered number from memory.

10. Claims 79,81,82 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGregor, in view of Klein, U.S. Patent No. 6,134,609.

Regarding claim 79, McGregor inherently discloses a DTMF encoder configured for detecting the DTMF tones associated with an outgoing telephone number, a processor configured for determining whether the outgoing call is a discount call by determining whether the predetermined number of dialed digits comprises a predetermined sequence of at least one DTMF tone that is dialed by a user (col. 5, lines 49-58 and col. 17, lines 43-50); a memory configured for storing the telephone number corresponding to the discount call (col. 3, lines 56-65 and col. 5, line 65 to col. 6, line 12)); and a DTMF generator configured for dialing the access number for a discount service provider and the outgoing telephone number (col. 5, line 65 to col. 6, line 12).

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McGregor fails to explicitly disclose an array of Pic I/O pins configured for monitoring a cell phone activity for outgoing call, said array comprising at least one Pic I/O pin.

In a similar field of endeavor, Klein discloses an interrupt controller such as a conventional Pic and I/O advanced programmable interrupt controller (col. 5, lines 20-26).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify McGregor to include an interrupt controller for the purpose of handling DTMF signal code dialogue with the central processor, such as for monitoring cell phone activity for outgoing call.

Regarding claim 81, McGregor as modified by Klein discloses the system according to claim 79, wherein the potential discount call is an international call (see McGregor col. 2, lines 54-65).

Regarding claim 82, McGregor as modified by Klein discloses the system according to claim 79, wherein the potential discount call is not a special type call or toll call (i.e., international call)(see McGregor col. 2, lines 54-65).

Regarding claim 84, McGregor as modified by Klein discloses the system according to claim 79, wherein a system for routing a call to a discount service provider attaches to a wireless device (see McGregor col. 3, lines 46-67).

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K Contee whose telephone number is 703-308-

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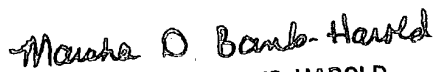
0149. The examiner can normally be reached on M (alternating), T & Th, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jey Contee

September 19, 2004

  
MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600